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EXAMINER

SONG, DAEHO D

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/580,800	Applicant(s) SACHELL, CHRISTINE	
	Examiner DAEHO D. SONG	Art Unit 2175	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Applicant's Response

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 06/29/2010 has been entered.

In Applicant's Response to RCE dated 06/29/2010, Applicant amended Claims 1-3, 6, 9-10, 12-13, 21-23, 26, 30, and 32, and argued against all rejections previously set forth in the Office Action dated 12/29/2009.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1. Claims 1-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

In summary, Claims 1 and 12 recite a "*computer readable medium*" comprising computer-executable instructions that have program codes for performing various functions. One of ordinary skill in the art at the time the invention was made would have

Art Unit: 2175

interpreted this definition of “*computer readable medium*” to include propagation signals and carrier waves that are used to transmit information to electronic devices.

Thus, the “*computer readable medium*” may comprise only propagation signals and carrier waves that are used to transmit information to electronic devices. Thus, the recited “*computer-readable medium*” is not a process, a machine, a manufacture or a composition of matter.

Accordingly, Claims 1-20 fail to recite statutory subject matter as defined in 35 U.S.C. 101.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-12, 25-32 and 35-40 are rejected under 35 U.S.C. 102(e) as being **clearly** anticipated by Guyot et al. (hereinafter Guyot): U.S. Patent Application Pub. No. 2006/0046699.

Guyot **expressly** teaches:

Claim 1. A communication system comprising: one or more computer readable mediums, comprising:

determining means operable to determine an attribute of a first communication device and to determine an attribute of a second communication device (fig. 3; [0045][0052]: determining a phone number of a first mobile phone and a phone number of a second mobile phone utilizing Global System for Mobile communications);

identifying means operable to identify a first avatar by using the attribute of the first communication device, wherein the first avatar is such that it conveys to a viewer thereof information about a person (fig. 4; [0046]: identifying a first avatar by the first mobile phone number wherein the first avatar conveys to a viewer about a person's mood/attitude, such as "confused" for avatar A of fig. 4); and

identifying means operable to identify a second avatar, different from the first avatar, by using the attribute of the second communication device, wherein the second avatar is such that it conveys to a viewer information thereof about the person (fig. 4; [0046]: identifying a second avatar by the second mobile phone number wherein the second avatar conveys to a viewer about a person's mood/attitude, such as "angry" for avatar B of fig. 4);

Art Unit: 2175

communicating means operable to communicate the first avatar to the first communication device and the second avatar to the second communication device, wherein communicating the first avatar comprises displaying a visual representation of the first avatar on the first communication device and communicating the second avatar comprises displaying a visual representation of the second avatar on the second communication device (fig. 4; [0018][0046]: communicating between the first avatar and the second avatar by means of displaying a visual image of each avatar on their mobile phones, such as an image of “confused” for avatar A, and an image of “angry” for avatar B).

Claim 2. The communication system as claimed in claim 1, further comprising replacing means operable to replace the first avatar with another avatar ([0018]: selecting a different avatar).

Claim 3. The communication system as claimed in claim 2, wherein the identifying means is operable to identify the first avatar by comparing the attribute to a communication device identifier that is associated with the avatar ([0046]: identifying the avatar by different user’s name associated with the avatar).

Claim 4. The communication system as claimed in claim 3, further comprising recording

Art Unit: 2175

means arranged to allow the person to record the communication device identifier

([0053]: storing the user's name associated with avatar).

Claim 5. The communication system as claimed in claim 4, wherein the replacing means is further operable to replace the communication device identifier with another communication device identifier (fig. 4; [0053]: selecting different user's name associated with avatar).

Claim 6. The communication system as claimed in claim 5, further comprising selecting means operable to allow the person to select the first avatar from a plurality of other avatars associated with the person (fig. 4; [0046]: selecting a first avatar).

Claim 7. The communication system as claimed in claim 6, wherein the selecting means is further operable to allow the communication device identifier to be selected from a plurality of other communication device identifiers (fig. 3; [0045]: selecting a name from a list of members).

Claim 8. The communication system as claimed in claim 7, wherein the determining means is operable to determine the attribute by processing caller identification data associated with the communication device ([0052]: providing telephone numbers with GSM and SMS).

Claim 9 The communication system as claimed in claim 8, further comprising messaging means operable to create a text, an audio and/or a video message that is associated with the avatar ([0024][0052]-[0054][0007]: SMS & audio/video conference).

Claim 10. The communication system as claimed in claim 9, wherein the first avatar and the plurality of other avatars depict an activity that involves the person ([0020]).

Claim 11 The communication system as claimed in claim 10, wherein the communication device comprises a mobile telephone and the attribute comprises a telephone number of the mobile telephone ([0052]).

Claim 12. A communication system comprising: one or more computer readable mediums, comprising:
an environment support means operable to support at least one virtual environment that can be accessed by a first person (fig. 1; [0009][0041]: a virtual reality system that can be accessed by a first person); and
a communicating means operable to communicate an avatar in the virtual environment to a mobile telephone handset of the first person subsequent to the first person accessing the environment, the avatar being such that it can convey to the first person information about a second person, whereby a visual representation of the avatar in the virtual environment is sent to the mobile telephone handset (figs. 2-4; [0043]-[0046]:

Art Unit: 2175

communicating an avatar to a mobile phone of the first person carrying information about a second person by means of sending a visual image of the avatar to other mobile phone display).

Claim 15. The communication system as claimed in claim 14, wherein the environment support means is such that it allows the first person to arrange the virtual environment such that it has a desired appearance (fig. 4; [0042]: changing character mood).

Claim 16. The communication system as claimed in claim 15, wherein the environment support means is operable to allow the first person and the second person to exchange other information via the virtual environment ([0018]: exchanging information).

.

Claim 17. The communication system as claimed in claim 16, wherein the other information comprises multi-media content ([0024]: audio information).

.

Claim 18. The communication system as claimed in claim 17, wherein the communicating means is further operable to allow the second person to control whether the avatar conveys the information to the first person ([0045][0046]: selecting avatar mood).

.

Claim 19. The communication system as claimed in claim 18, wherein the environment

Art Unit: 2175

support means is operable to allow the first person to access the virtual environment via a communication network, the communicating means also being operable to communicate the avatar in the virtual environment to the first person via the communication network (fig. 1; [0041]).

.

Claim 20. The communication system as claimed in claim 19, wherein the information conveyed by the avatar to the first person comprises audio and/or video information ([0024][0052]-[0054][0007]).

Claims 21-31:

The subject matter recited in Claims 21-31 corresponds to the subject matter recited in Claims 1-11, respectively. Thus Guyot discloses every limitation of Claims 21-31, as indicated in the above rejections for Claims 1-11.

Claims 32 and 35-40:

The subject matter recited in Claims 32 and 35-40 corresponds to the subject matter recited in Claims 12 and 15-20, respectively. Thus Guyot discloses every limitation of Claims 32 and 35-40, as indicated in the above rejections for Claims 12 and 15-20.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2175

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 13-14 and 33-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guyot, in view of Toyota et al. (hereinafter Toyota): U.S. Patent Application Pub. No. 2003/0028596.

As indicated in the above rejection, Guyot discloses every limitation of claim 12.

Guyot fails to disclose user's access authority to virtual environment.

Toyota expressly teaches the user's access authority to virtual environment, and specific disclosures of particular claims are as following:

Toyota expressly teaches:

Claim 13. The communication system as claimed in claim 12, which the environment support means is operable to determine a level of authority associated with the second person, and provide the second person with access to the virtual environment if the level of authority is deemed appropriate, where access to the virtual environment comprises conveying a visual representation of the virtual environment (fig. 8;

Art Unit: 2175

[0012][0013][0127]: access control to a virtual community conveying community ID of each virtual community).

Claim 14. The communication system as claimed in claim 13, wherein the environment support means is operable to allow the first person to assign the level of authority ([0012][0013]: determining or assigning user's access authority for each terminal).

Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the disclosure of Guyot to incorporate with user's access authority to a virtual community, as taught by Toyota, in order to provide for the users to be able to freely participate without any specific participation procedure in virtual community (see [0010]).

Claims 33 and 34:

The subject matter recited in Claims 33 and 34 corresponds to the subject matter recited in Claims 13 and 14, respectively. Thus Guyot in view of Toyota discloses every limitation of Claims 33 and 34, as indicated in the above rejections for Claims 13 and 14.

Response to Arguments

Art Unit: 2175

3. Applicant's arguments against the rejections based on 35 U.S.C. 102 with respect to Claims 1-40 have been considered but are moot in view of the new grounds of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAEHO D. SONG whose telephone number is (571)272-7524. The examiner can normally be reached on Mon-Fri 9:30-6:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boris Pesin can be reached on (571)272-4070. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2175

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Daeho D Song/

Examiner, Art Unit 2172

/Boris Pesin/

Supervisory Patent Examiner, Art Unit 2174